

(b) The Responsible Official shall ensure that planning and decision making for each proposed Agency action complies with these regulations and with Agency NEPA policy and guidance provided by the SEO, HQ/EMD, and the Center's environmental management office. For facility programs and projects, the Responsible Official is the individual responsible for establishing, developing, and maintaining the institutional capabilities required for the execution of programs and projects (e.g., Center Director, facility manager). For other programs and projects, (e.g., space flight programs/projects, R&D programs/projects) the Responsible Official is the NASA official responsible for the formulation and implementation of the program or project (e.g., The Associate Administrator for Science Mission Directorate, Center Director).

(c) NASA must comply with this subpart when considering issuance of a permit, lease, easement, or grant to a non-Federal party and may seek such non-Federal party's assistance in obtaining necessary information and completing the NEPA process. The Responsible Official(s) for such action(s), in consultation with HQ/EMD and/or the Center's environmental management office, will determine the type of environmental information needed from the non-Federal party and the extent of the non-Federal party's participation in the necessary NEPA process.

§ 1216.303 NEPA process in NASA planning and decision making.

(a) NEPA requires the systematic examination of the environmental consequences of implementing a proposed Agency action. Full integration of the NEPA process with NASA project and program planning improves Agency decisions and ensures that:

(1) Planning and decision making support NASA's strategic plan commitment to sustainability and environmental stewardship and comply with applicable environmental statutes, regulations, and policies.

(2) The public is appropriately engaged in the decision-making process.

(3) Procedural risks and delays are minimized.

(b) Determining the appropriate level of NEPA review and documentation for a proposed NASA action will depend upon the scope of the action and the context and intensity of the reasonably foreseeable environmental impacts.

(c) The environmental impacts of a proposed Agency action must be considered, along with technical, economic, and other factors that are reasonably foreseeable, beginning in the early planning stage of a proposed action. NASA will take no action which would have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of its NEPA review.

§ 1216.304 Categorical exclusions.

(a) Categorical Exclusions (CatExs) are categories of Agency actions with no individually or cumulatively significant impact on the human environment and for which neither an EA nor an EIS is required. The use of a CatEx is intended to reduce paperwork, improve Government efficiency, and eliminate delays in the initiation and completion of proposed actions having no significant impact.

(b) A proposed action may be categorically excluded if the action fits within a category of actions eligible for exclusion (such categories are listed in paragraph (d) of this section), and the proposed action does not involve any extraordinary circumstances as described in paragraph (c) of this section:

(c) Extraordinary circumstances that will preclude the use of CatExs occur when the proposed action:

(1) Has a reasonable likelihood of having (individually or cumulatively) significant impacts on public health, safety, or the environment.

(2) Imposes uncertain or unique environmental risks.

(3) Is of significantly greater scope or size than is normal for this category of action.

(4) Has a reasonable likelihood of violating Federal, federally recognized Indian tribe, State, and/or local law or requirements imposed for the protection of the environment.

(5) Involves impacts on the quality of the environment that are likely to be environmentally controversial.

(6) May adversely affect environmentally sensitive resources, such as, but not limited to, federally listed threatened or endangered species, their designated critical habitat, wilderness areas, floodplains, wetlands, aquifer recharge areas, coastal zones, wild and scenic rivers, and significant fish or wildlife habitat, unless the impact has been resolved through another environmental review process; e.g., the Clean Water Act (CWA), the Coastal Zone Management Act (CZMA).

(7) May adversely affect known national natural landmarks, or cultural or historic resources, including, but not limited to, property listed on or eligible for the National Register of Historic Places, unless the impact has been resolved through another environmental review process; e.g., the National Historic Preservation Act (NHPA).

(d) Specific NASA actions meeting the criteria for being categorically excluded from the requirements for EAs and EISs are as follows:

(1) Administrative Activities including:

(i) Personnel actions, organizational changes, and procurement of routine goods and services.

(ii) Issuance of procedural rules, manuals, directives, and requirements.

(iii) Program budget proposals, disbursements, and transfer or reprogramming of funds.

(iv) Preparation of documents, including design and feasibility studies, analytical supply and demand studies, reports and recommendations, master and strategic plans, and other advisory documents.

(v) Information-gathering exercises, such as inventories, audits, studies, and field studies, including water sampling, cultural resources surveys, biological surveys, geologic surveys, modeling or simulations, and routine data collection and analysis activities.

(vi) Preparation and dissemination of information, including document mailings, publications, classroom materials, conferences, speaking engagements, Web sites, and other educational/informational activities.

(vii) Software development, data analysis, and/or testing, including computer modeling.

(viii) Interpretations, amendments, and modifications to contracts, grants, or other awards.

(2) Operations and Management Activities including:

(i) Routine maintenance, minor construction or rehabilitation, minor demolition, minor modification, minor repair, and continuing or altered operations at, or of, existing NASA or NASA-funded or -approved facilities and equipment, such as buildings, roads, grounds, utilities, communication systems, and ground support systems, such as space tracking and data systems.

(ii) Installation or removal of equipment, including component parts, at existing Government or private facilities.

(iii) Contribution of equipment, software, technical advice, exchange of data, and consultation to other agencies and public and private entities, where such assistance does not control a receiving entity's program, project, or activity.

(iv) NASA ceremonies, commemorative events, and memorial services.

(v) Routine packaging, labeling, storage, and transportation of hazardous materials and wastes, in accordance with applicable Federal, federally recognized Indian tribe, State, and/or local law or requirements.

(3) Research and Development (R&D) Activities including:

(i) Research, development, and testing in compliance with all applicable Federal, federally recognized Indian tribe, State, and/or local law or requirements and Executive orders.

(ii) Use of small quantities of radioactive materials in a laboratory or in the field. Uses include material for instrument detectors, calibration, and other purposes. Materials must be licensed, as required, and properly contained and shielded.

(iii) Use of lasers for research and development, scientific instruments and measurements, and distance and ranging, where such use meets all applicable Federal, federally recognized Indian tribe, State, and/or local law or requirements, and Executive orders. This applies to lasers used in spacecraft, aircraft, laboratories, watercraft, or outdoor activities.

(4) Real and Personal Property Activities including:

(i) Acquisition, transfer, or disposal of any personal property, or personal property rights or interests.

(ii) Granting or acceptance of easements, leases, licenses, rights-of-entry, and permits to use NASA-controlled property, or any other real property, for activities which, if conducted by NASA, would be categorically excluded in accordance with this section. This assumes that NASA has included any required notices in transfer documentation and any terms and conditions necessary to ensure protection of the environment, as applicable (Record of Environmental Consideration (REC) required).

(iii) Transfer or disposal of real property or real property rights or interests if the change in use is one which, if conducted by NASA, would be categorically excluded in accordance with this section (REC required).

(iv) Transfer of real property administrative control to another Federal agency, including the return of public domain lands to the Department of the Interior (DoI) or other Federal agencies, and reporting of property as excess and surplus to the General Services Administration (GSA) for disposal, when the agency receiving administrative control (or GSA, following receipt of a report of excess) will complete any necessary NEPA review prior to any change in land use (REC required).

(v) Acquisition of real property (including facilities) where the land use will not change substantially (REC required).

(5) Aircraft and Airfield Activities including:

(i) Periodic aircraft flight activities, including training and research and development, which are routine and comply with applicable Federal, federally recognized Indian tribe, State, and/or local law or requirements, and Executive orders.

(ii) Relocation of similar aircraft not resulting in a substantial increase in total flying hours, number of aircraft operations, operational parameters (e.g., noise), or permanent personnel or logistics support requirements at the receiving installation (REC required).

(e) The Responsible Official shall review the proposed action in its early planning stage and will consider the scope of the action and the context and intensity of any environmental impacts to determine whether there are extraordinary circumstances that could result in environmental impacts. If extraordinary circumstances exist, the Responsible Official will either withdraw the proposed action or initiate an EA or EIS.

(f) The NASA SEO will review the categorical exclusions at least every seven years, in accordance with CEQ guidance, to determine whether modifications, additions, or deletions are appropriate, based upon NASA's experience. Recommendations for modifications, additions, or deletions shall be submitted to the SEO for consideration and informal discussion with the CEQ.

§ 1216.305 Actions requiring environmental assessments.

(a) The Responsible Official will prepare an EA when a proposed action cannot be categorically excluded, and the proposed action is not expected to result in impacts that require analysis in an EIS. The Responsible Official will consider the scope of the action and the context and intensity of any environmental impacts when determining whether to prepare an EA.

(b) Typical NASA actions normally requiring an EA include:

(1) Specific spacecraft development and space flight projects/programs (as defined in Appendix A to this subpart).

(2) Actions altering the ongoing operations at a NASA Center which could lead directly, indirectly, or cumulatively to substantial natural or physical environmental impacts.

(3) Construction or modifications of facilities which are not minor.

(4) Proposed actions that are expected to result in significant changes to established land use.

(5) A space flight project/program that would return extraterrestrial samples to Earth from solar system bodies (such as asteroids, comets, planets, dwarf planets, and planetary moons), which would likely receive an Unrestricted Earth Return categorization